

## **REMARKS**

Claims 1, 5-11, and 20-39 are pending in the present application. Claims 8-10, 22, 23, and 31-34 have been withdrawn. Claims 1, 37, 39 have been amended in this paper. Reexamination and reconsideration of the application are respectfully requested.

### **Response to Examiner Requests on Page 2 of Current Office Action**

As requested by the examiner, applicant hereby sets forth the support for the amendments of the September 22, 2008 response and here. In that amendment, “biocompatible” was changed to “bioabsorbable.” Support for this is found on, e.g., page 4, lines 5-11; page 10, lines 25-26 of applicant’s specification. “Self-expandable endoprosthesis” was introduced and has support on, e.g., page 5, lines 3-4 of applicant’s specification. “Tightly coiled” and “heat bonded” are found on, e.g., page 4, lines 24-27; page 13, lines 15-18. “The areas of varying strength being selected from the group consisting of scoring, perforations and thinner diameter portions” can be found on, e.g., page 11, lines 24-26; page 13, lines 9-12.

Pursuant to the examiner’s request, applicant has conducted a limited electronic database search of files in the practitioner’s office. Based on review of this search, applicant is not aware of any co-pending applications that claim similar subject matter.

### **Rejections Under 35 U.S.C. § 102(b)**

The Office Action rejected claims 1, 6, 11, 14-16, 29, 30, 35 and 36 under 35 U.S.C. § 102(b) over Strecker et al. (US Patent 5,405,378). This rejection is traversed.

Claim 1 provides (1) a “self-expandable endoprosthesis,” and (2) a “bioabsorbable material configured to prevent expansion of the endoprosthesis.” Similarly, claims 25 provides (1) “a self-expanding stent,” and (2) “a bioabsorbable material positioned on the stent such that it prevents self-expansion of the stent.”

The examiner relies on Strecker, FIG. 9, col. 10, lines 10-24 to support the rejection. However, Strecker in the drawing figure and at the cited passage is referring to “a knitted intravascular prosthesis 80,” so the resorbable thread 81 is part of the prosthesis 80, not part of the restraining crocheted material 14 surrounding the prosthesis 15 (FIG. 1). Thus, Strecker does not show both (1) a prosthesis and (2) a bioabsorbable restraint preventing the self-expansion of the stent. Applicant respectfully asserts that this rejection is unsupported and should be withdrawn.

#### Rejections Under 35 U.S.C. § 102(e)

The Office Action rejected claims 1, 5-7, 11, 20, 21, 24-30 and 35-39 under 35 U.S.C. § 102(e) over Kocur (US Patent 6,350,277). This rejection is respectfully traversed.

Applicant respectfully contends that Kocur does not teach a “bioabsorbable material [that] is configured to fail after a predetermined amount of time in the body, and the material includes areas of varying strength such that the material fails in a controlled manner, the areas of varying strength being selected from the group consisting of scoring and thinner diameter portions,” as set forth in amended independent claims 1, 37, and 39.

Rather, as the examiner has pointed out in the Office action, Kocur in FIGS. 5a, 5b, and col. 4, lines 20-32 teaches a “fatigue point 220” that is a “narrowed region of the band [215].” The narrowed region as interpreted from the Kocur passage and the drawing implies that the width of the band has been narrowed. The thickness of the band, however, has not been reduced. That fatigue point 220 cannot be considered a “thinner diameter portion” as claimed.

Also, a “fatigue point” implies that the area has been weakened for onset of cracking resulting from repeated or cyclic stress. This is not the same structure as scoring or thinner diameter portions. At least for these reasons, claims 1, 37, 39 are patentable over this reference.

Independent claim 25 is patentable over Kocur since the reference does not disclose “wherein the bioabsorbable material is wrapped around and bonded to the stent such that it does not overlie the distal end and the proximal end of the stent.” One embodiment of this structure is shown in FIGS. 3 and 5 of applicant’s drawings. There is no explicit or implied teaching in Kocur that the distal and proximal ends are intentionally left uncovered by the bioabsorbable, retaining material. In fact, Kocur in FIGS. 1, 2 show uniform spacing between retaining segments/bands 115 from one end of the prosthesis to the other; FIG. 3, uniform spacing and restraint at one end of prosthesis; FIGS. 4a, 4b restraint 115 at both ends; FIGS. 7, 8 restraint end-to-end; FIG. 11a restraint 415 overlying one end; FIG. 11b restraint 415 overlying both ends; FIG. 11c restraint overlying one end. Thus, Kocur does not teach or suggest claim 25 to support a novelty rejection, and in view of the covered ends, Kocur teaches away from the claimed invention under an obviousness analysis.

For the above reasons, applicant contends that all claims are patentable over the cited art. Applicant respectfully disagrees with the grounds supporting the examiner’s rejections not specifically set forth above.

**Conclusion**

In view of the foregoing, it is respectfully submitted that all pending claims are now in condition for allowance. Reexamination and reconsideration of the application are respectfully requested and allowance at an early date is solicited.

The Commissioner is hereby authorized to charge any fees or costs due at present or in the future to our Deposit Account No. 06-2425.

Respectfully submitted,  
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